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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re K.M. et al., Persons Coming Under
the Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

T.M.,

Defendant and Appellant.

E065896

(Super.Ct.No. SWJ1400914)

OPINION

APPEAL from the Superior Court of Riverside County. Judith C. Clark, Judge.

Affirmed.

Marissa Coffey, under appointment by the Court of Appeal, for Defendant and
Appellant.

Gregory P. Priamos, County Counsel, James E. Brown, Guy B. Pittman, and Julie
Koons Jarvi, Deputy County Counsel, for Plaintiff and Respondent.

T.M. (mother) appeals the juvenile court's orders terminating her parental rights with respect to her three children after bypassing reunification services under Welfare and Institutions Code section 361.5.¹ Mother argues the court should have granted her section 388 petitions and given her reunification services. She also argues the court erred in ordering adoption as the children's permanent plan and failing to apply the parental benefit exception to terminating parental rights. (§ 366.26, subd. (c)(1)(B)(i).) Finding no abuse of discretion, we affirm the challenged orders.

I

FACTUAL BACKGROUND

The Riverside County Department of Public Social Services (DPSS) initiated this dependency in November 2014. Mother has three children from three different fathers: K.M., who was six years old at the time of the 2014 petition, N.R., who was two, and M.M., who was 18 months.² In the petition and detention report, DPSS alleged mother has a history of neglecting her children and allowing her boyfriend, Juan R., to physically abuse K.M.

¹ Unlabeled statutory citations refer to the Welfare and Institutions Code.

² K.M.'s father is deceased, N.R.'s father is Juan R., and the identity of M.M.'s father is unknown.

A. *The 2012 Dependency*

In 2012, DPSS took K.M. into protective custody after investigating allegations of physical abuse and general neglect. At the time, mother was pregnant with Juan R.'s biological daughter, N.R. A medical examination of K.M. revealed he had a fractured rib, first and second degree burns on his feet, lesions and a scar on his penis, blood in his ear canal, a scar and bruising on his abdomen, and numerous bruises and petechiae on other parts of his body, including his face, chest, back, and buttocks. K.M. also suffered from "two infections which were a result of [mother] not seeking medical care for [K.M.'s] injuries." Mother reported she did not seek medical care for her son because she did not want child protective services (CPS) to become involved. The family reported K.M. was burned when Juan R. was bathing him.

Mother was arrested for child endangerment and DPSS took K.M. into protective custody. As soon as N.R. was born, DPSS took her into protective custody as well. After being charged with felony child abuse, Juan R. pled guilty to misdemeanor child endangerment in May 2012.

At the jurisdiction and disposition hearing in the 2012 dependency, the juvenile court declared K.M. a dependent under section 300, subdivisions (a), (b), (e), and (i) and N.R. a dependent under subdivisions (b) and (j).³ The court bypassed reunification services for mother and Juan R. Mother subsequently successfully petitioned for reunification services under section 388 and the court ultimately terminated jurisdiction in December 2013, returning K.M. and N.R. to her custody.

Immediately after closure of the 2012 dependency, San Bernardino County CPS received allegations of abuse and mistreatment of K.M. and opened an investigation. The referrals alleged K.M. was forced to lift weights multiple times a day for 30 minutes at a time and that K.M. had bruising on his buttocks where Juan R. had hit him. They also alleged K.M. could be heard crying and Juan R. could be heard threatening to beat him. The investigation continued for eight months until CPS closed the case.

B. Detention in the Current Dependency

On November 3, 2014, DPSS received a referral alleging general neglect of N.R. and M.M. and physical abuse of K.M. Allegedly, Juan R. was living in mother's home in Hemet in violation of court orders prohibiting negative contact with K.M. and unsupervised contact with K.M. and N.R. According to the referral, K.M. lived with his

³ These subdivisions apply to children who have suffered nonaccidental serious physical harm at the hands of a parent (§ 300, subd. (a)), serious physical harm or illness as a result of a parent's inability to protect (§ 300, subd. (b)), severe physical abuse (§ 300, subd. (e)), acts of cruelty at the hands of a household member (§ 300, subd. (i)). Section 300, subdivision (j) applies to a child whose sibling has been abused or neglected as defined in subdivisions (a), (b), (e), or (i).

paternal grandparents in San Bernardino during the week and visited mother in Hemet during weekends.

On November 12, 2014, a DPSS social worker attempted to visit mother's house. A neighbor told the social worker Juan R. lived at the house with mother and her two children. The neighbor said mother and Juan R. constantly argued and cursed at one another. Juan R.'s car was parked near mother's house, but no one answered the door.

On November 18 and 19, the social worker spoke with detectives from the San Bernardino County Sheriff's Department who had been investigating the family. The detectives informed her Juan R. was currently living with mother in Hemet and that mother denied this was the case in an attempt to prevent CPS involvement. On November 18, K.M. told the police Juan R. had "smashed him on the floor leaving a mark to his back." K.M. had undergone a forensic interview and medical examination several days prior (on November 7, 2014) and the examination revealed he had bruising and petechiae on his nose. K.M. told the interviewer Juan R. had pinched his nose.

Crimes Against Children Detective Michelle Brand reported it was "evident [K.M.] has been coached on what to say and what not to say." Detective Brand cited to a past referral related to redness in N.R.'s eye and reported mother had said it happened when N.R. "was at the neighbor's house." Detective Brand suspected mother "covers for" Juan R. and is not protective of her children. The detective also informed the social worker that in 2011 Juan R. had been charged with statutory rape and lewd acts on a minor under 14 years old.

On November 19, the social worker returned to mother's house with Detective Brand. A neighbor reported the family had left in the middle of the night a few days earlier, after Juan R. learned from a different neighbor that someone had visited the house looking for him. On November 20, the police located K.M. in San Bernardino. DPSS took him into protective custody and placed him in a foster home.

While in protective custody, K.M. told the social worker he did not want to live with Juan R. He said Juan R. and mother "use a lot of bad words and yell at each other." He described Juan R. as "a bad man" who forced him to do push-ups and lift weights. He also said Juan R. had poked his chest with a pencil, leaving a mark. The results of K.M.'s November 7 medical exam revealed he had petechiae on his upper torso and a scabbed scar "half the size of a penny" on his nose.

The social worker met with mother on November 21. Mother had no concerns that Juan R. was mistreating her children and did not believe he was a danger to N.R. and M.M. She reported K.M. was living with his paternal grandparents in Phelan and claimed Juan R. was at work when K.M. visited her. She said Juan R. "is trying to change his life around" and "does not act inappropriately with [K.M.]." When Juan R. and K.M. are together, they "typically just play video games with one another." The social worker informed mother there was a court order restricting contact between Juan R. and K.M., and mother replied, "no negative contact means no discipline. No one ever said [Juan R.] couldn't be here." Asked about the various documented injuries on K.M.'s body, mother said she had "no idea" whether Juan R. had intentionally inflicted them.

She had “considered it,” but it had “not been proven by either side.” Mother added that Juan R. “is not a bad person” and it was “all a misunderstanding.” DPSS took N.R. and M.M. into protective custody as well, and placed them in a foster home together.

On November 24, 2014, DPSS filed a dependency petition on behalf of mother’s three children, alleging various forms of neglect and abuse under section 300, subdivisions (a) (serious physical harm), (b) (failure to protect), (g) (no provision for support), and (j) (abuse of a sibling). The detention report described the family’s prior history with CPS and prior criminal history. Mother’s criminal record contained her 2012 arrest for child endangerment; Juan R.’s contained his 2012 conviction for child endangerment and 2011 charges for statutory rape and lewd acts on a child under the age of 14. The court detained the children and ordered monitored visits with mother at least twice a week.

C. Jurisdiction and Disposition

DPSS submitted a jurisdiction/disposition report and multiple addendum reports recommending the court bypass reunification services for mother and set a section 366.26 hearing. In December 2014, mother began attending supervised visits with the children at DPSS offices twice a week. The foster mother and social worker who monitored the visits expressed several concerns. Mother did not engage much with the children during the visits, but instead used her phone and took photographs. Mother was unable to control the children. She allowed K.M. to jump and climb on the furniture. During one visit, K.M. crawled away from her and hid under a table. K.M.’s foster mother reported

K.M. was having nightmares and trouble sleeping due to his fear of Juan R. After visits, K.M.'s behavior was more disruptive than usual and he would experience nightmares.

In January 2015, the social worker attended K.M.'s Riverside Child Assessment Team interview. During the interview, K.M. said he was afraid of Juan R., who had "done mean things to him" and "gave him marks because he was a bad boy." Juan R. had choked K.M. leaving an "owie" on his neck, "pushed" his nose, spanked him with a fly swatter, and made him do push-ups. K.M. said mother had told him to stop telling people about what had happened with Juan R.

In February 2015, K.M.'s foster mother reported K.M.'s nightmares had become more frequent and tended to follow family visits and phone calls. She described K.M. as aggressive, frequently angry, and very manipulative. She had found K.M. "choking their family dog and holding his mouth shut to prevent the dog from breathing." K.M.'s teacher reported his behavior was more difficult to manage when K.M. knew a visit was upcoming.

That same month, the social worker received the results of a psychological assessment K.M. had taken in October 2012. The Hesperia Unified School District psychologists performing the assessment diagnosed K.M. with "Axis I Posttraumatic Stress Disorder [(PTSD)] and Axis III Ear Infection, Clinical Physical Abuse, and Axis IV Severe Psychosocial and Environmental Problems." They noted K.M. exhibited "themes of abuse" and "multiple behavior problems," such as stabbing dolls, pretending to shoot another student's work with a gun, and "yelling at, making fists at or hitting

other students.” They concluded K.M. was “at risk in the areas of depression, internalizing problems, withdrawal, and adaptability.” K.M. exhibited a “high level of maladjustment” in various areas, including aggression, hyperactivity, and externalizing problems.

K.M. began the 2014-2015 school year with a diagnosis of PTSD and Emotional Disturbance. His 2015 Individualized Education Plan (IEP) observed he suffered from “Emotional Disturbance” and exhibited “delays in all academic areas” due to his delays in social and emotional growth. However, the IEP also observed he had made significant improvement from the previous academic year “when he resided in the care of the paternal grandparents.” In his “previous IEP there was much turmoil and possibly poor attendance.” K.M.’s special and general education teachers “noticed that on days after [he] has a visit with his biological family, he is often lethargic and very distracted.” The IEP recommended counseling for K.M. to cope with “the trauma and insecurities of [his] previous home life.”

Throughout March and April 2015, K.M. engaged in disruptive, aggressive, and sexually inappropriate behavior at home and in school. His foster mother reported he hit her husband on one occasion, frequently screamed and yelled, and did not respond to rules or boundaries. The foster family had to separate K.M. from the dog to ensure he did not try to hurt or kill it. Once when the foster mother was preparing to take a shower, K.M. came into the bathroom and began “thrusting and shaking his penis at her.” K.M. was disciplined on various occasions at school, day camp, and his after school program

for hitting another child in the face, repeatedly going into the girl's restroom, hitting a staff member in the face, choking another child, slapping another child, and ripping another student's necklace from her neck.

In the months after detention, mother completed a 13-class domestic violence parenting program. She attended a 16-week anger management course, but missed five classes. She also attended counseling. After 10 sessions, her therapist reported she had "demonstrated significant progress since she entered treatment."

At the jurisdiction and disposition hearing in April 2015, the juvenile court found all three children were dependents under section 300—K.M. under subdivisions (a) and (b), N.R. under subdivisions (b) and (j), and M.M. under subdivisions (b), (g), and (j). The court removed the children from mother's care and denied her family reunification services under section 361.5, subdivisions (b)(3)⁴ and (b)(6).⁵ The court set the section 366.26 hearing for August 2015 and reduced mother's visitation to once a month.

⁴ Section 361.5, subdivision (b)(3) authorizes a court to bypass services to a parent whose child: (1) was previously deemed a dependent and removed from the parent's care as a result of physical or sexual abuse and (2) is again being removed from the parent's care in the current dependency "due to additional physical or sexual abuse."

⁵ Section 361.5, subdivision (b)(6) authorizes a court to bypass services to a parent whose child has been deemed a dependent "as a result of severe sexual abuse or the infliction of severe physical harm to the child, a sibling, or a half sibling by a parent or guardian," if reunification services would "not benefit the child."

D. *Placement in the Prospective Adoptive Home*

In June 2015, DPSS removed K.M. from his foster home due to his aggressive and sexually inappropriate behavior and placed him in a group home after unsuccessful attempts to locate alternative placement.

The social worker reported that mother visited with the children regularly but the visits continued to be problematic. Mother would bring doughnuts and other “junk food” to the visits and was argumentative with DPSS staff when they told her not to eat in the visitation room. N.R. and M.M. often came home from visits with diarrhea or upset stomachs. When DPSS staff asked mother to stop bringing unhealthy food to visits, she responded that she only saw her children once a month so “she brings the kids what they ask for.” The social worker described the visits as “hectic” because the children had a lot of energy and did not listen well to mother.

On November 3, 2015, DPSS placed all three children in the same prospective adoptive home after several successful visits. The social worker reported the children were doing very well in the new home. They had bonded with the prospective adoptive parents and seemed comfortable, secure, and happy. The prospective adoptive parents’ biological children were excited about having younger siblings. K.M. reported he loved his new family and being able to live with his siblings. He called the prospective adoptive parents mom and dad.

E. *Mother's Section 388 Petitions and the Section 366.26 Hearing*

In December 2015, mother filed section 388 petitions asking the court to modify its prior bypass order and grant her reunification services. As support for the requirement that her circumstances had changed since bypass, mother alleged she had participated in 39 counseling sessions and a psychological evaluation, and had visited the children consistently. She alleged reunification services were in the children's best interests because she shared a strong bond with her children and had learned to be a more protective parent during therapy. The petition contained the results of her psychological evaluation. Before offering his opinion, Dr. Edward Ryan, mother's evaluator, clarified that he did not have access to DPSS's records and his assessment was "based upon [mother's] self report, which can be self serving." Dr. Ryan offered the following recommendation: "From a cognitive and mental health perspective, my opinion is that there is no viable basis for a decision of severance of parental rights. As stated earlier, I have not had access to all the information in this matter, and would reserve the right to change my opinion."

DPSS filed an addendum report updating the court on the family's status and recommending denial of mother's petition. Mother was living alone in a two-bedroom apartment in Hemet. She was unemployed but received a quarterly college loan of \$900. She reported she was in good physical health and no longer had contact with Juan R.

K.M. was receiving weekly therapeutic behavioral services to address his issues with PTSD, anger outbursts, and poor impulse control. His behavior coach reported his

behavior had improved. There had been no disruptive incidents since his placement in the prospective adoptive home, and the prospective adoptive mother reported that his nightmares had substantially decreased.

The social worker questioned the strength of the bond between mother and her children. K.M. had spent nearly half of his life in foster care and N.R. and M.M. had spent more time in foster care than with mother. The social worker opined the children were young and vulnerable and commencing reunification services would interrupt the stability they had begun to experience in the prospective adoptive home. She believed mother was still unable to protectively parent her children and noted that as late as July 2015 mother still did not believe Juan R. caused the injury to K.M.'s nose. She also believed mother had not benefited from the services she had received in the 2012 dependency because "she allowed [Juan R.] to not only visit with the children, but live in the home, and had [K.M.], living with his grandparents so that she did not have to deal with CPS calls. Therefore, [K.M.] witnessed his mother's ongoing preference for [Juan R.] over the need of her own son."

In February 2016, the court held a hearing on mother's petition. Mother called K.M.'s previous special education teacher to testify regarding the bond between her and her son. K.M. was a student in the teacher's class for about two months in 2015, and during that time the teacher observed one interaction between K.M. and mother. She testified that one day after K.M.'s IEP meeting she told him his mother was at school and he "dropped his backpack and sprinted toward her." The teacher also testified that K.M.

talked to her about his mother “pretty much almost every day” while he was in her class. On cross examination, counsel asked the teacher to describe the context in which K.M. would talk about his mother. The teacher explained: “Well, first he would start acting out . . . it was negative behaviors. [¶] And then he would usually break down, I would say, twice a week where he was crying. And then that’s when he would say those things [about his mother].” The teacher had not seen K.M. since October 2015 and did not know how he was doing in his new home.

K.M. provided the following stipulated testimony at the hearing: “That he graduated from [behavioral services] Saturday; that he would be mad and sad if he didn’t get to see his mom, [T.M.], again; he thinks she should get a second chance; he wants the judge to say ‘yes’ instead of ‘no’ because he wants to live with his mom again and he misses and loves her.”

Mother submitted a letter from her therapist who recommended family reunification services or at least a continued parental relationship. The therapist stated mother was maturing and appeared “determined to confront obstacles.” Mother also submitted an addendum psychological assessment Dr. Ryan wrote after speaking with mother’s therapist and reviewing additional information from DPSS. Dr. Ryan stated the case was “not an easy [one] to adjudicate” and that “the logic of DPSS is quite understandable.” He recommended the court offer mother reunification services or at least “allow a continued relationship between these children and their mother.”

Finally, mother submitted a letter she had written to the court in lieu of testifying. She apologized for her actions and explained that she had been an adopted child who “was constantly looked at differently, told that my real parents didn’t love me or want me.” She stated: “I don’t want my children to go through what I went through, I know my past actions were not the best for my kids but . . . I was never the direct threat to my children in any of my cases, I had only been guilty of making poor choices without thinking of the effect that my choices would have on my children.”

After considering the evidence presented on the petition, the court found mother had not sustained her burden of showing her circumstances had changed. The court commended mother for the progress she had made, observing she had willingly participated in therapy, become less defensive about her parenting weaknesses, and was no longer involved with Juan R. However, the court found mother was still incapable of accepting responsibility for the primary issue in this dependency—Juan R.’s intentional physical abuse of K.M. The court stated: “[M]other initially denied that . . . [Juan R.] had hurt [K.M.] in the past, despite criminal prosecution [of Juan R.] for those actions. Over the passing months of this case, mother has lessened her denial but still does not acknowledge that [K.M.] was intentionally injured. She has stated that through therapy she now, quote, ‘sees things from the Department’s point of view,’ end quote, but that is far from recognizing the intentional injuries inflicted upon her son.” The court cited mother’s statement that she “was never a direct threat to her children” as evidence of her inability to acknowledge her direct role in K.M.’s severe suffering. The court found

K.M. had developed infections as a result of mother's refusal to seek medical care for his burn, abrasion, and fracture injuries in an attempt to avoid CPS involvement. "Those infections, along with the unnecessary pain and suffering experienced by [K.M.], were as a result of the direct threat imposed by mother and her failure to secure medical care for the minor."

The court further found that even if mother's circumstances had changed, reunification services were not in the children's best interests because the children had spent the majority of their lives outside of mother's care and were thriving in their prospective adoptive home. The court recognized K.M. had expressed a preference to live with mother, stating, "I have no doubt that [K.M.], because he is older, loves his mother," but "children are not always the best judge of what is in their best interests." "[T]he reality is every time [K.M.] was subjected to [Juan R.] the child was injured repeatedly, and mother continued to keep her blinders on as to the source of the pain and agony being inflicted upon her son." The court concluded the children's interest in stability and permanency outweighed mother's interest in maintaining a parental relationship.

The court denied mother's petitions and moved forward with the section 366.26 hearing. It ruled adoption was in the children's best interests and, finding no applicable exception, terminated mother's parental rights.

II

DISCUSSION

A. *The Court Properly Denied Mother's Section 388 Petitions*

Mother contends the juvenile court abused its discretion in denying her section 388 petitions. For the reasons stated below, we find no error.

Section 388 permits a parent of a dependent child to petition for a hearing to change, modify, or set aside any previous court order. (§ 388, subd. (a).) “A section 388 petition must show a change of circumstances and that modification of the prior order would be in the best interests of the minor child.” (*In re Ernesto R.* (2014) 230 Cal.App.4th 219, 223.) “[T]he change in circumstances must be substantial,” as in “changed,” not “changing” circumstances. (*Ibid.*) Typically, the parent must demonstrate changed circumstances by a preponderance of the evidence, but where, as here, the court has bypassed reunification services under section 361.5, subdivision (b)(6), the burden of proof is clear and convincing evidence. (§ 388, subd. (a).) We review the juvenile court’s ruling for abuse of discretion. (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685-686 [“The denial of a section 388 motion rarely merits reversal as an abuse of discretion”].)

This record lacks evidence of the significant type of change required to grant a section 388 petition. The court’s primary reason for bypassing reunification services was mother’s failure to protect K.M. from severe physical abuse by her boyfriend on multiple occasions for more than two years. While under her care, Juan R. inflicted multiple

severe injuries on K.M., including a fractured rib, second degree burns, and blood in his ear canal. Instead of protecting her then five-year-old son and doing everything in her power to remove him from the danger Juan R. posed, mother tried to cover up the abuse. She told K.M. not to talk about how he had received his injuries, lied to the police and CPS about living with Juan R., and refused to seek medical treatment for K.M.'s injuries. As a result of her actions K.M. suffered more than just the abuse Juan R. inflicted upon him. He developed ear infections as a result of mother's failure to seek medical treatment and experienced the emotional trauma of living in an unsafe home for over two years. The fact that, after all this, mother claimed to the court she "was never a direct threat to her children," demonstrates she had not changed.

On appeal, she argues breaking up with Juan R. and remaining apart from him for a year was an "enormous change." She points to her progress in therapy and Dr. Ryan's opinion that she "has made a decision to make changes in her life and her choices in life." While a parent's efforts to change and improve are always commendable, at best, the evidence mother relies on demonstrates only changing—not changed—circumstances. (*In re Ernesto R.*, *supra*, 230 Cal.App.4th at p. 223 [changing circumstances are insufficient to warrant modifying a previous court order].) Mother has started participating in therapy and working on her issues with denial and accepting responsibility, but unfortunately, in light of her history of poor parenting choices, these recent actions do not constitute the kind of *substantial* change required to grant her section 388 petition.

Furthermore, even if mother had demonstrated a substantial change in circumstances, reunification services would not be in the children's best interest. "After the termination of reunification services . . . 'the focus shifts to the needs of the child for permanency and stability.' " (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) Mother's children have been in foster care for the majority of their young lives. They have formed a strong and healthy bond with their prospective adoptive parents, who have provided a nurturing environment and are committed to adopting them. After two dependency actions, K.M. has finally begun to thrive in a home environment and make significant progress on his emotional and academic development. Granting a section 388 petition would delay selection of a permanent home for the children and not serve their best interests. (*In re Casey D.* (1999) 70 Cal.App.4th 38, 47.) " 'Childhood does not wait for the parent to become adequate.' " (*In re Ernesto R., supra*, 230 Cal.App.4th at p. 224.) Mother did not explain in her petitions how returning the children to her care would benefit them. Her statements focused on how much she loves her children and how she was ready to care for them. Mother may well feel a strong bond with her children; however, we cannot conclude the juvenile court acted unreasonably or arbitrarily in finding it would be detrimental to disturb the bond between the children and their prospective adoptive parents and to introduce further delay in the adoption process. Denial of the petitions was proper.

B. *The Parental Benefit Exception Does Not Apply*

Mother contends the court erred in failing to find the parental benefit exception to terminating parental rights applied. Again, we find no error in the court's ruling.

“ ‘Adoption, where possible, is the permanent plan preferred by the Legislature.’ ” (*In re L. Y. L.* (2002) 101 Cal.App.4th 942, 947.) Once the juvenile court finds a child is adoptable, the parent bears the burden of proving one of the exceptions to terminating parental rights exist. (*In re Lorenzo C.* (1997) 54 Cal.App.4th 1330, 1343.) “[I]t is only in an extraordinary case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement.” (*In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1350.)

The exception at issue here, commonly called the parental benefit exception, requires the parent to prove “termination would be detrimental to the child” because the parent has “maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).) California courts have interpreted this exception to apply to only those parent-child relationships the severance of which “would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed.” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 575.) In order for the exception to apply, the parent must provide for the child a “continuing parental relationship.” (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1420.) A relationship will not trigger the parental benefit exception if the “parent has frequent contact with but does not stand in a parental role to the child.” (*Ibid.*)

Mother has not demonstrated she has a continuing parental relationship with the children. N.R. and M.M. have been in foster care nearly the entirety of their young lives, and there is scant evidence they have formed a bond with mother. With K.M., there is more evidence of a bond, but still not enough to support a finding that he would be “greatly harmed” by severance of mother’s parental rights. (*In re Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) K.M.’s stipulated testimony indicates he loves mother and wanted to live with her. However, there is also evidence he was very happy living with his siblings in the prospective adoptive home and had already begun to call his prospective adoptive parents mom and dad. Moreover, the evidence in DPSS’s periodic reports demonstrates K.M. suffered significant emotional and academic delays and exhibited disruptive behaviors for most of this dependency, but had begun to show marked improvement once he was placed in the prospective adoptive home.

We do not see the evidentiary support for mother’s contention that “her role as parent in her children’s lives simply cannot be substituted by any other adult.” At most, she has occupied the role of a nonparent relative during this dependency, and it is the prospective adoptive parents who have provided the children with a healthy parental relationship. The social worker’s descriptions of mother’s visits with the children were not positive on the whole. She observed that mother did not pay full attention to the children and did not appropriately feed or discipline them. Moreover, it is not as if K.M. had an opportunity to develop a strong bond with mother before the current dependency. Before he was taken into protective custody in this dependency, mother sent him to live

with his grandparents so she could continue living with her abusive boyfriend. Rather than leave Juan R. and remove the threat to her son, she gave up living with him and instead let him suffer more of Juan R.'s physical abuse when he visited her on weekends.

The bottom line is that K.M. and his siblings need a safe, stable, and loving home environment and there is no evidence terminating mother's parental rights would greatly harm them. The court properly concluded no exceptional situation existed to forego adoption.

III

DISPOSITION

The orders appealed from are affirmed.

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SLOUGH
J.

We concur:

RAMIREZ
P. J.

McKINSTER
J.